THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.21223 OF 1995

DATED: 19-09-2006

BETWEEN

Bethala Appalaraju S/o Pallamraju
22 years, working as Attender in
PACS, Kotavuratla, Visakhapatnam Dt.

...PETITIONER

AND

The Special Officer, Kotavuratla PACS,
Kotavuratla, Visakhapatnam District
& another

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to direct the respondents to regularize the services of the petitioner from the date on which he joined duty as attender in the Primary Agricultural Cooperative Society (PACS),

Kotavuratla, Visakhapatnam and consequently direct the respondents to pay the arrears of salary due to him.

Learned counsel for the petitioner submits that the petitioner was appointed in the first respondent PACS on 01.04.1993 as an attender on a salary of Rs.520/- per month and he had been continuing in service since 1993 till the date of this petition. The first respondent paid salaries to the petitioner till April 1995 thereafter he was not paid salary from the month of May 1995 onwards without any justification whatsoever. Therefore, non-payment of salary is illegal and arbitrary.

Admittedly, the PACS is not a State within the meaning of Article 12 of the Constitution of India. The society registered under the Cooperative Societies Act has its own byelaws and its official activities are not statutory in nature. However, any appointment by a cooperative society cannot be made contrary to the specific provisions of Section 116(c) (1) and (2) of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act'). Under Section 116(c) (1) and (2) of the Act the appointment has to be made in accordance with the staffing pattern having regard to its proportionate income.

Counter has been filed stating that the petitioner was appointed on temporary basis but not according to the staffing pattern and an amount of Rs.11,820/- was paid to him for the period from 01.04.1993 to 31.03.1995. It is further stated that the petitioner himself discontinued from service and his services were never regularized as contended by him.

In view of the stand taken by the respondent that the petitioner himself discontinued from service and that he was already paid the amounts for the period during which he worked on temporary basis,
I am of the opinion that the said disputed questions of fact cannot be decided in a writ petition.

The writ petition is accordingly dismissed with a liberty to the petitioner to avail the alternative remedy available to him. No costs.

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V. ESWARAIAH, J

September 19, 2006
DSK